

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. BANK, NATIONAL ASSOCIATION, in its
capacity as Trustee, JOSHUA N. TERRY, AND ACIS
CAPITAL MANAGEMENT, L.P.,

Plaintiffs,

-against-

THE CHARITABLE DONOR ADVISED FUND, L.P.,
CLO HOLDCO LTD., AND NEXPOINT
DIVERSIFIED REAL ESTATE TRUST,

Defendants.

Case No. 1:21-cv-11059 (GHW)

**NOTICE OF HIGHLAND CLO
FUNDING, LTD.'S MOTION TO
DISMISS FIRST AMENDED
COUNTERCLAIMS AGAINST IT**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that Highland CLO Funding, Ltd., by and through its undersigned counsel, moves this Court for an order dismissing in their entirety with prejudice the First Amended Counterclaims filed against it by CLO HoldCo, Ltd. and The Charitable Donor Advised Fund, L.P., ECF No. 155, under Rule 12(b)(1), (2), and (6) of the Federal Rules of Civil Procedure and the doctrines of international comity and *forum non conveniens*. This motion is based on the accompanying memorandum of law and the declarations of Alasdair Davidson and Richard Boleat, each dated August 15, 2023, with supporting exhibits attached thereto.

Dated: August 15, 2023
New York, New York

AKIN GUMP STRAUSS HAUER & FELD LLP

By: /s/ Uri A. Itkin
Uri A. Itkin
Shanna L. Miles
Michael Chen

One Bryant Park
New York, New York 10036
Telephone: (212) 872-1000

Attorneys for Highland CLO Funding Ltd.

CERTIFICATE OF SERVICE

I, Uri A. Itkin, hereby certify that on August 15, 2023, I caused a true copy of the foregoing documents to be served via CM/ECF to all counsel of record.

/s/ Uri A. Itkin

Uri A. Itkin